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MEXICO

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CONSTITUTIONS OF THE COUNTRIES OF THE WORLD

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Editors
ALBERT P. BLAUSTEIN & GISEBERT H. FLANZ

MEXICO

1982-1984

Constitutional Amendments
compiled and annotated by
GISEBERT H. FLANZ

Translations by
AURA MARINA FLOREZ

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MEXICO

1982 - 1984

Introduction

Our last supplement to the Constitution of Mexico was issued in August 1982. Since that time, there have been numerous and important amendments.

The changes are so extensive that it has become necessary to prepare a new updated English translation of the entire Constitution. This work is now underway. In the meantime, we are publishing our English translations of the articles that were amended in 1982 and 1983.

We are indebted to Jorge Carpizo for sending us some of the recent amendments.

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On November 17 several amendments were published in the Diario Oficial. A fifth paragraph was added to Article 28 which reads as follows:

Article 28

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The conduct of public service of banking and lending institutions is also excepted from what is provided in the first paragraph of this Article. This service will be exclusively provided by the State through institutions, in accordance to the terms established by the corresponding regulatory law, which also will determine the guarantees that protect public interest and the functioning of those supporting the policies of national development. The public service of banking and lending institutions will not be the object of concession to individuals.

Note: The addition of this paragraph reflects the enhanced policy of state intervention and control in the banking field.

Parts of Article 73, which defines the power of Congress, were also slightly amended. Article 73(X) now reads:

"to legislate in the entire Republic concerning hydrocarbons, mining, the motion picture industry, commerce, games of chance and lotteries, credit institutions, electric and nuclear energy, to establish a single bank of issue under the terms of Article 28 and to enact regulating labor laws of Article 123."

Article 73(XVIII) was also modified to read as follows:

"To establish mints, fix the standards of coins, to dictate rules to determine the relative value of foreign currencies and to adopt a general system of weights and measures."

Changes were also made in Article 74 which enumerates "the exclusive powers of the Chamber of Deputies." The second subparagraph of Article 74(IV) was changed by providing new dates for the presentation of revenue bills to the Chamber. Formerly, it was stipulated that the Federal Executive present these "not later than the last day of November." The amended text now reads:

"The Federal Executive shall present to the Chamber pertinent revenue bills and proposed budgets by not later than November 15 or up to December 15 when its term begins on the date provided for in Article 83, and the pertinent Cabinet Secretary shall appear to account for them."

and social security. It was necessitated by the amended text of Article 28. Paragraph XIII bis reads:

"The institutions referred to in the fifth paragraph of Article 28 will regulate its labor relations with its workers according to the provisions of this paragraph."

It should be noted that all these amendments were made toward the very end of President Jose Lopez Portillo's term.

The new President Miguel de la Madrid Hurtado was sworn in on December 1. In his inauguration speech, he outlined a 10 point austerity program.

The 1983 budget which was sent to Congress on December 8 provided further indications of how the new President intended to deal with the "emergency situation."

The second set of amendments were published in the Diario Oficial on December 28. The following articles of the Constitution: 108, 109, 110, 111, 112, 113 and 114 were completely revised. Also amended were certain parts of Articles 22, 73, 74, 76, 94, 97 and 134. The above mentioned articles 108 to 114 concern the "responsibilities of public officials," which are detailed in Title IV. A comparison with the corresponding previous articles reveals greater stringency. They reflect concerns over the abuses of power which took place during the previous administration. Also, in Article 108, an obligation was imposed on the states to enact similar provisions in their constitutions. An English translation of the new Title IV follows:

TITLE IV

Responsibilities of Public Officials

Article 108 - In order to carry out the responsibilities addressed in this title, public elected officials, members of the Federal Judicial System, Judicial of the Federal District, officials and employees, and in general any individual who has employment, office or public commission of any nature in the Federal Public Administration or in the Federal District; shall be considered as public officials and as such will be responsible for offenses or omissions incurred in the performance of their respective functions.

During his term of office the President of the Republic may be impeached only for high treason and serious common crimes.

Governors of the States and Deputies of local legislatures and the Justices of the superior local court of justice, shall be liable for violations of this Constitution and federal laws, as well as mismanagement of federal funds and resources.

The Constitutions of the States of the Republic shall specify, on the same terms expressed in the first paragraph of this article in terms of their responsibilities, the character of public officials of those being employed, hold office or commission by the States and Municipalities.

Article 109 - The Congress of the Union and Legislature of the States, within their own jurisdiction, shall issue laws regarding responsibilities of public officials, as well as norms conducive to punishment of those who, while holding office, are guilty, in accordance with the following safeguards [prevenciones]:

I. - Sanctions specified in Article 110 shall be imposed by means of a political trial [juicio politico] on public officials mentioned in it, when they, in the exercise of their functions, commit acts or omissions that go [redunden] against fundamental public interests or its proper management [despacho].

Political trial shall not be conducted for the mere expression of ideas.

II. - The commission of crimes by any public official shall be prosecuted and sanctioned in accordance with the penal legislation; and

III. - Administrative sanctions shall be applied to public officials for acts or omissions that have a direct effect on the legality, honesty, loyalty, impartiality and efficiency that they should observe in holding their employment, office or commission.

The procedure for application of the aforementioned sanctions shall develop autonomously. Sanctions shall not be imposed twice for a single act [conducta] of the same nature.

The laws shall determine the cases and circumstances in which penalties should be imposed for illegal enrichment by public officials while holding office, or through their office, by themselves or through a third party, increase their income, acquire property or present themselves as being the owners, and whose legal origin could not be proven. The penal laws shall sanction with seizure and loss of claim on said property, besides other corresponding penalties.

Any citizen, under strict responsibility and through petition and presentation of proof, shall be able to make an accusation before the Deputy Chamber of the Congress of the Union, with respect to the conduct referred to in this Article.

Article 110 - Senators and Deputies of the Congress of the Union, Justices of the Supreme Court of Justice of the Nation, Secretaries of the Cabinet, Heads of the Administrative Department, Chiefs of the Federal District Department, the

Attorney General of the Republic, the Attorney General of the Federal District, the Circuit Justices, and District Judges, the Justices and Judges of the Federal District, the General Directors or their equivalents in decentralized entities, enterprises with a majority of state shares, societies and associations incorporated into them and public trusts can be subjected to political trial.

Governors of the States, local Deputies, Justices of the Superior Local Court of Justice, shall only be subject to political trial as set forth in this Title, for major violations of this Constitution and the Federal law from which they originate, as well as on account of mismanagement of federal funds and resources, but in this case the resolution should only be declarative and shall be communicated to the local Legislature so that while exercising their powers they shall proceed appropriately [como corresponda].

The sanctions shall consist of the dismissal of the public official as well as in disqualifying him from holding office, employment or commission of any nature in public service.

For the application of sanctions referred to in this specification [precepto], the Chamber of Deputies shall proceed with the corresponding charge, before the Chamber of Senators, with previous absolute majority of votes of its members present at the session of said Chamber, after having grounds for the corresponding procedure and after hearing the accused.

Having taken cognizance of the indictment [acusacion], the Chamber of Senators, constituted as a grand jury, shall apply the corresponding sentence through a resolution by two-thirds majority of its members present at the session, once the respective procedures have been applied and upon hearing the accused.

The declarations and resolutions of the Chamber of Deputies and Chamber of Senators are unchallengeable [inatacables].

Article 111. - In order to take penal action against the Deputies and Senators to the Congress of the Union, the Justices of the Supreme Court of Justice of the Nation, the Secretaries of the Cabinets, the Heads of the Administrative Department, the Chief of the Federal District Department, the Attorney General of the Republic, the Attorney General of Justice of the Federal District, for liability of crimes while holding office, the Deputy Chamber shall declare by absolute majority of votes of its total members present at the session, if there are grounds or not to proceed against the accused.

If the finding of the Chamber is negative, there shall be no grounds for any further proceeding; but such decision shall not be an obstacle to continuing the prosecution of the charge whenever the accused has relinquished his immunity, since the

decision of the Chamber in no way prejudices the merits of the charge [imputation].

If the finding is affirmative, the accused shall be left at the charge of the competent authorities so that they may proceed according to the law.

Regarding the President of the Republic, his charges may only be brought before the Chamber of Senators, as set forth in Article 110. In this case, the Chamber of Senators shall make a decision based on the applicable penal legislation.

In order to prosecute Governors of the States, local Deputies and Justices of the Superior Courts of Justice of the states, for federal crimes, the same procedure established in this Article shall be followed, but in this case, the declaration of justification shall be for the purposes of communicating to the local legislatures, so that by exercising their power they may proceed as is appropriate.

The declaration and resolutions of the Chambers of Deputies and Senators are unchallengeable.

The effect of the declaration that gives rise to proceedings against the accused shall be to suspend him from office while he is under penal procedure. If the findings are negative, the accused shall resume his function. If the findings are positive and it deals with a crime committed while holding office, then the defendant shall not be pardoned.

In civil suits against any public official, the declaration of justification is not required.

The penal sanctions shall be applied in accordance with the penal legislation, and if it is a crime committed where the author of same has obtained an economic gain or has caused property damages, shall be kept in accordance to what is necessary to satisfy the damages caused by his illegal conduct.

The economic sanctions cannot exceed by threefold the gains obtained or the damages caused.

Article 112. - The declaration of justification shall not be required of the Chamber of Deputies when any of the public officials cited in the first paragraph of Article 111 commits a crime during the time that he is not holding office.

If the public official has held office again or has been named or elected to hold a different office, except for those functions enumerated in Article 111, the procedure shall be in accordance with the disposition set forth in said precept.

Article 113. - The laws on administrative responsibilities of public officials, shall determine their obligations in order to protect the legality, honesty, loyalty, impartiality and efficiency in the process of holding office, employment, charge or commission; the applicable sanctions for acts or omissions committed, as well as the procedures and the authority to apply them. Said sanctions, besides the ones provided by law, shall consist of discharge, dismissal and disqualification, as well as economic sanctions, and they shall be established in accordance with the economic benefits obtained by the accused and in accordance with the damages caused by his acts or omissions referred to in Section III of Article 109, but they must not exceed threefold the benefits obtained or of the damages caused.

Article 114. - The procedure of political trial can only be initiated during the period in which the public official holds office and one year after. The respective sanctions shall be applied in no more than a year from the start of the proceedings.

The responsibility for crimes committed during the time of office of any public official, shall be enforceable in accordance with the prescriptive terms provided for in the penal law, which will never be less than three years. The prescriptive deadlines are interrupted as long as the public official takes charge of some of the offices referred to in Article 111.

The law shall determine the prescriptive cases of administrative responsibility taking into account the nature and consequences of the acts or omissions referred to in Section III of Article 109. When said acts or omissions are serious the prescriptive terms shall not be less than three years.

The partially amended text of Article 22 was published in the Diario Oficial on December 28, 1982.

Article 22. - Punishment by mutilation and infamy, branding, flogging, beating with sticks, torture of any kind, excessive fines, confiscation of property and any other unusual or extreme penalties are prohibited.

Attachment proceedings covering the whole or part of the property of a person made under judicial authority to cover payment of civil liability arising out of the commission of an offense or for the payment of taxes or fines; seizure of property in cases of illegal enrichment as set in the terms of Article 109, shall not be deemed a confiscation of property.

Capital punishment for political offenses is likewise prohibited; as regards other offenses, it can only be imposed for high treason committed during a foreign war, parricide, murder that is treacherous, premeditated, or committed for profit, arson, abduction, highway robbery, piracy, and grave military offenses.

It may be noted that the first paragraph remained unchanged. Confiscation of property remained an unconstitutional penalty. But because of the acts of corruption which had been committed during the preceding administration and in order to provide adequate remedies against possible future offenders, the second paragraph was amended by referring specifically to the amended Article 109, which was also published on December 28, 1982. As previously noted, Article 73(X) had already been amended in November 1982. Another partial amendment was published in the Diario Oficial on December 28. A change was made in Article 73(VI) which now refers to Title IV rather than to Article 111

Article 73. - Section VI. -

I to VI.....
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Base 4a. - (Last Paragraph). - The Justices and Judges to whom this basis refers shall continue in office for six years, and they may be re-elected; in any case, they may be removed as set forth in terms of Title IV of this Constitution.

As a result of the partial amendment of Article 74(V), which concerns the exclusive powers of the Chamber of Deputies, it now states:

Article 74, Section V

I to IV.....
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To declare justified or unjustified the petitions for removal of public officials who have committed a crime under the terms of Article 11 of this Constitution.

To take cognizance of accusations against public officials referred to in Article 110 of this Constitution, and to constitute itself as a grand jury in common crimes for which they are accused.

The amendment of Article 76 concerns Section VII, which now refers also to "omissions" as set forth in the previously amended Article 110.

Article 76, Section VII

I to VI.....
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VII. - To constitute itself as a grand jury to take cognizance in political trial of crimes [faltas] or omissions of public officials and those that go against the fundamental public interests and its proper management in the terms set forth in Article 110 of this Constitution.

The final paragraph of Article 94 which formerly stated that "the Ministers of the Supreme Court of Justice may be removed from office only when they are guilty of misconduct" has been changed to read:

Article 94, Final Paragraph

The Ministers of the Supreme Court of Justice can only be removed from office under the terms of Title IV of this Constitution.

A small change was made in the first paragraph of Article 97 which now refers to the amended Title IV rather than Article 111.

Article 97, First Paragraph

The Circuit Magistrates and District Judges shall be appointed by the Supreme Court of Justice of the Nation, they shall have the qualifications which the law requires and shall hold office for four years, at the expiration of which, if they should be re-elected or promoted to a higher position, they may be removed only in accordance with Title IV of this Constitution.

Article 127 was slightly amended to include the "paraestatales."

Article 127. - The President of the Republic, the Ministers of the Supreme Court of Justice of the Nation, the Deputies and Senators to the Congress of the Union and other elective public officials shall receive adequate and non-refusable compensation for their service, position or commission, which shall be determined annually and equitably in the income revenues of the Federation or in the budgets of state-like [paraestatales] entities, as deemed appropriate.

The last amendment, which was published in the Diario Oficial of December 28, 1982 concerned Article 134. This was formerly a brief article of only one sentence. It has been expanded and specific reference has been made to the amended Title IV.

Article 134. - The economic resources available to the Federal Government and the Government of the Federal District, as well as its corresponding public state-like administrations [paraestatales], shall be administered with efficiency, efficacy, and honesty in order to fulfill the objectives for which they were destined.

Acquisitions, leasing and transfer of property, rendering services of any sort and the contracts for execution of works shall be awarded by public auctions through public offering, so that bids can be presented freely under seal and opened in public to insure to the State the best conditions for price, quality, financing, opportunity and related circumstances.

When the bids mentioned in the preceding paragraph are not qualified to insure said conditions, the laws shall establish the basis, procedures, rules, requirements and other elements to insure economy, efficiency, efficacy, impartiality and honesty that will ensure the best conditions for the State.

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The management of federal economic resources shall be subject to the bases of this Article.

The public officials shall be responsible for enforcing these bases under the terms of Title IV of this Constitution.

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Aside from charges of corruption, the previous administration was also criticized for alleged human rights violations. The new administration took energetic steps to clear up such charges and to institute appropriate remedial actions.

The organization and operations of certain secret police units were closely scrutinized and some of them were abolished.

From the very beginning the new administration was confronted with pressing economic problems. It tried to develop an economic plan which would seek to achieve more long range objectives. This can be seen in the legislation which was published on January 5 in the Diario Oficial. This planning law was a forerunner of constitutional amendments which would seek to provide the basis for more comprehensive economic planning.

The third set of amendments was published in the Diario Oficial on February 3. They pertained to the following Articles: 4, 16, 21, 25, 26, 27, 28, 73 and 115.

Article 4 is a part of Title I which defines the individual guarantees. Before it was amended Article 4 consisted of three paragraphs which delineated the basic principles of family law and relations. The amendment of February 3, 1983 added one more paragraph:

Article 4.

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Every person has the right to health protection. The law shall define the bases and modalities for access to health services and shall establish the participation of the Federation and federal entities regarding matters of public health, in conformity with the provisions of Section XVI, Article 73 of this Constitution.

Two paragraphs were added to Article 16 which were intended to strengthen the principles of the privacy of the home and of correspondence.

Article 16.

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Sealed correspondence sent through the mail shall be exempt from search and its violation shall be punishable by law.

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In time of peace, no member of the army shall be quartered in private dwellings against the consent of the owner, nor may he impose any obligations whatsoever. In time of war, the military may demand lodging, equipment, provisions, and other assistance, under the terms that are established in the corresponding martial law.

The wording of Article 21 was largely left unchanged but two sharp reductions were made in the maximum period of detention: from fifteen days to thirty six hours. Also the amount of the maximum fine which may be imposed on a day laborer was drastically reduced. It was formerly one week. Now it is one day's income. The same maximum fine was set for non-salaried workers.

Article 21. - The imposition of all penalties is an exclusive attribute of the judiciary. The prosecution of offenses pertains to the public prosecutor and to the judicial police, who shall be under the immediate command and authority of the public prosecutor. The punishment of violations of governmental and police regulations pertains to the administrative authorities, which punishment shall consist solely of imprisonment for a period not exceeding thirty-six hours or a fine. Should the offender fail to pay the fine, it shall be substituted by a corresponding period of detention, which in no case may exceed thirty-six hours.

If the offender is a day laborer, or a workman, his punishment cannot consist of a fine exceeding the amount of his wages for one day.

In the case of non-salaried workers, the fine shall not exceed the equivalent of one day's wages [salario].

An important new Article 25 was published on February 3, 1983. Formerly Article 25 consisted of a single sentence designed to protect sealed correspondence. This principle was incorporated, as already noted, in the amended Article 16.

What was put in its place is almost completely unprecedented in the way the duty of the State was defined in the field of economic development.

Article 25 may indeed be viewed as the nucleus of a new economic constitution within the framework of a traditional political constitution. It differs from many other contemporary constitutions of developing countries in that it avoids theological cliches and slogans. Instead it sets forth, in a rather pragmatic way, three sectors: public, social, and private and ascribes to each specific tasks in the economic development of the country. Here is the translated text:

Article 25. - It is the responsibility of the State to direct national development to guarantee that it be integral, that it strengthens the national sovereignty and its democratic regime and that through the promotion of economic growth and employment and a more just distribution of income and wealth, it shall permit the full exercise of liberty and dignity of individuals, groups and social classes, whose safety is protected by this Constitution.

The State shall plan, conduct, coordinate and orient the national economic activity, and shall bring forth the regulation and implementation of activities of general interest

within the scope [marco] of liberties set forth in this Constitution.

The public, social and private sector shall contribute to the national economic development, without disregarding other forms of economic activity which contribute to the development of the Nation.

The public sector shall be exclusively in charge of strategic areas defined in Article 28, paragraph 4 of the Constitution, the Federal Government shall always have ownership and control on the organizations created for this purpose.

Likewise it shall participate alone or in conjunction with the social and private sectors, as provided by law, to foster [impulsar] and organize priority areas of development.

Under the criteria of social equity and productivity, the social and private sector of the economy shall be supported and fostered making sure that they adhere to the modalities dictated by public interest and the use, for general benefit, of the productive resources, ensuring its conservation as well as the environment.

The law shall establish the mechanisms that facilitate the organization and expansion of economic activity of the social sector: of communal lands [ejidos], organizations of workers' cooperatives, communities, enterprises belonging in part or exclusively to the workers, and in general all forms of social organization for the production, distribution and consumption of goods and services socially necessary.

The law shall encourage and protect economic activity by private individuals and shall provide conditions for the growth of the private sector and its contribution to the national economic development, within the terms set forth in this Constitution.

Article 26 is also entirely new. The previous Article 26 concerned the quartering of troops, which, as already noted, became part of Article 16.

Article 26. - The State shall organize a system of democratic planning of national development that imprints solidity, dynamism, permanence and equity to the growth of the economy for the independence and political, social and cultural democratization of the Nation.

The objectives [fines] of the national plan [proyecto] contained in this Constitution shall determine planning goals. The planning shall be democratic. Through the participation of the different social sectors, it shall embody the aspirations and demands of society to incorporate them in the plan and the development programs. There shall be a national development plan to which the programs of the Federal Public Administration shall be obligatorily subjected.

The law shall empower the Executive to establish participation procedures and popular consultation in the democratic national planning system, and the criteria for formulation, instrumentation, control and evaluation of the plan and the development programs. Likewise it shall determine the entities responsible for plan process and the bases through which the Federal Executive coordinates through agreements with the government of the federal institutions and invites and works in conjunction with the individuals, on the activities to be conducted, for its elaboration and execution.

In the democratic planning system, the Congress of the Union shall intervene as provided by law.

To the lengthy Article 27 two more sections (XIX and XX) were added. Sections I to XVIII remained unchanged.

Article 27

I to XVIII.....
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XIX.- Based on this Constitution, the state shall make use of measures for the expeditious and honest administration [imperticion] of agrarian justice, in order to insure juridical security in the possession of communal land [tierra ejidal], communal and small landed holdings, and shall give support of legal counsel to the workers on the land [campesinos].

XX.- The State shall promote conditions for integral rural development, with the purpose of creating jobs and guarantee the welfare of the rural population and their participation and inclusion in the national development, and shall promote agricultural, stockbreeding and forestry activities in order to achieve optimum land use with infrastructures, credit and training and technical assistance services. Likewise it shall enact regulatory legislation to plan and organize the agricultural and stockbreeding production, its industrialization and commercialization, which shall be considered of public interest.

Another part of the constitutional foundation for the new economic plan may be found in Article 28. It is not completely new, but there are important new elements in it. Now, as before, this Article (28) is concerned with the threat of monopolies and it seeks to specify some exceptions which are deemed to be in the public interest. The most important new elements may be found in the fifth paragraph which has been inserted to solidify the constitutional basis of the nationalized banking system. In the third paragraph, which is also new, the previously stated principle of consumer protection has been extended into new areas such as setting maximum prices by law on certain goods "considered to be necessary for national economy or popular consumption." It also seeks to avoid excessive or unnecessary intermediaries. The amended Article 28 has been substantially expanded. The current text follows:

Article 28 - In the United Mexican States there shall be no monopolies or restrictions to free competition [estancos] of any kind, nor exemption from taxes under the terms and conditions provided by law. Equal treatment shall be given to prohibitions under the guise [titulo] of protection to industry.

Consequently, the law shall punish severely and the authorities shall effectively prosecute every concentration or cornering in one or a few hands of articles of prime necessity for the purpose of obtaining a rise in prices; every act or proceeding which prevents or tends to prevent free competition in production, industry or commerce, or services to the public; every agreement or combination, in whatever manner it may be made, of producers, industrialists, merchants, and common carriers, or those engaged in any other service, to prevent competition among themselves and to compel consumers to pay exaggerated prices; and in general, whatever constitutes an exclusive and undue advantage in favor of one or more specified persons and to the prejudice of the public in general or of any social class.

The laws shall fix bases to set maximum prices for articles, or consumer goods considered to be necessary for the national economy or popular consumption, as well as to impose means [modalidades] for the organization of the distribution of these articles, or consumer goods, in order to avoid excessive or unnecessary intermediaries which would bring about a shortage in the supply, as well as price rises. The law shall protect consumers and shall encourage their organization for better protection of their interests.

The functions exercised exclusively by the State in the strategic areas referred herein shall not constitute monopolies: the coinage of money; the postal system; telegraph; radiotelegraphy and communications via satellites; the issuance of money by a single bank to be controlled by the Federal Government; petroleum and other hydrocarbons; basic petroleum chemistry; radioactive minerals and nuclear power production; electricity; railroads; and the activities expressly provided for in the laws issued by the Congress of the Union.

Also exempted from the provisions of the first part of the first paragraph of this Article are the banking and credit institution services. This service shall be rendered exclusively by the State through institutions, under the terms established by the respective regulating law, which will determine the guarantees that protect public interest and the operation of those in support of national development policies. The public banking and credit service shall not be the object of concession to individuals [particulares].

The State shall have bodies [organismos] and institutions deemed necessary for the effective management of the strategic areas in its charge, and first priority activities where, according to the law [it] participates alone or with the social and private sectors.

The following shall not constitute monopolies, associations of workers organized to protect their interests, and the associations or cooperative societies of producers so that in defense of their own interests or public interest, they will be able to sell directly in foreign markets national or industrial products that are the main source of wealth of the region in which they are produced, or if they are not articles of main consumption, given the case that said associations are under the vigilance or protection of the Federal Government or the States, and previous authorization for this purpose should be attained from the respective legislatures in each individual case.

The same legislatures, by themselves or on the proposal of the Executive, shall be able to revoke, when public necessity so requires, the authorization given for the formation of the aforementioned associations.

Nor shall the privileges, extended for a fixed period of time, to authors and artists for the production of their works, and to those which, for the exclusive use of their inventions, may be granted to inventors and those who perfect some improvement constitute monopolies.

Subject to the laws, the State may, in cases of public interest [interes general] grant concessions for the rendering of public services, or for the exploitation, use or development [aprovechamiento] of goods in the domain of the Federation subject to exceptions provided by laws.

Article 73, which, as was noted earlier, had been twice amended in November and December 1980 was again amended on February 3, 1983. This time, additions were made to Section XXIX. They are identified as XXIXD,E and F. Their brevity may be misleading. As will be seen, they provide broad authority for the enactment of laws concerning the planning, programming and regulation of economic development.

Article 73

I to XXIX-C.....

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XXIX-D. - To enact laws on national planning of economic and social development.

XXIX-E. - To enact laws for the programming, promotion, coordination [concertacion] and execution of actions of economic order, especially those related to supply and others that have as their goal the timely and competent production of goods and services, socially and nationally necessary.

XXIX-F. - To enact laws conducive to the promotion of Mexican investments, regulation of foreign investments, transfer of technology and the production, diffusion and application of scientific and technological knowledge [conocimientos] for national development.

The remaining amendments which were published on February 3, 1983 concern Article 115 which is the first article of Title V (The States of the Federation). The main changes were made in what was formerly paragraph IV and is now paragraph V. A comparison will show that while many of the previous provisions were rearranged, the wording was not changed. Because of this rearranging and the elimination of some provisions, the text of the entire Article was reissued and reads as follows:

Article 115. - For their internal government, the States shall adopt the popular, representative, republican form of government, with the free municipality as the basis of their territorial division and political and administrative organization, in accordance with the following principles:

I. Each municipality shall be administered by a Council [Ayuntamiento], elected by direct popular vote and there shall be intermediate authority between this body and the government of the state.

Municipal presidents, aldermen [regidores] and council [sindicos] chosen by direct popular election, may not be re-elected for the term immediately following. Persons who discharge the functions of those offices either by indirect election, appointment or designation by any authority, no matter what title they may be given, likewise may not be re-elected for the term immediately following. None of the above-mentioned officials, when holding office as incumbents, may be elected for the term immediately following as alternates, but persons designated as alternates may be elected for the term immediately following as incumbents, unless they have performed such duties during the preceding term.

All these provisions are the same as the previous text which was last amended in 1933. The following provisions of Article 115(I) are new:

Local governments with two thirds approval of their members may dismiss councils [ayuntamientos] declare them non-existent and suspend or revoke any of its members' terms for any serious causes provided for in the local law, as long as its members have had sufficient time to present evidence and bring forth defense arguments as they see fit.

In case a council [ayuntamiento] is declared non-existent or if due to resignation or absence of the majority of its members, if it shall not proceed according to law as to role of alternates, or shall not conduct new elections, the Legislatures shall appoint amongst the residents to the Municipal Councils, who will conclude their respective terms.

If any of the members should leave his post, he shall be substituted by his alternate or it shall be dealt with as provided by law.

II. - Municipalities shall be invested with juridical personality and shall administer its finances as provided by law.

[The first sentence of paragraph II was formerly paragraph III, whose text dates from 1953.]

The councils [ayuntamientos] shall be empowered to issue in accordance with the normative bases that should be established by the Legislatures, the police and good government force, the regulations, circulars, and administrative orders for general compliance within their respective jurisdictions.

III. - The municipalities, with the concurrence of the states, when deemed necessary or when provided by law, shall have the charge of the following public services:

- a) Drinking water and sewage system
- b) Public lighting
- c) Trash collection
- d) Storage warehouse
- e) Forts
- f) Barracks
- g) Streets, parks and gardens
- h) Public safety and transportation
- i) The rest shall be determined by the local Legislatures taking into consideration municipal territorial as well as socio-economic conditions, as well as its financial and administrative capability.

Municipalities belonging to the same state, with previous consent between their councils and in accordance with the law, shall be able to coordinate and work jointly to provide more efficiently their respective public services.

IV. - Municipalities shall freely administer their finances, which shall be composed of revenues from their properties, as well as taxes and other revenues that legislation so establishes in their favor, and in any event:

- a) shall collect taxes, including additional interest rates, established by the states on real property its fractioning, division, consolidation, movement and remodeling as well as those having direct effect on the property value.

Municipalities may sign agreements with the State, so that it takes some of the responsibilities regarding collection of taxes.

- b) The federal participations, which will be covered by the Federation for the municipalities, in accordance with the bases, amounts and deadlines annually determined by the State Legislatures.

- c) Revenues derived from the rendering of public services in its charge.

The federal laws shall not limit the authority of the States to establish taxes referred to in parts a) and c), nor shall they grant exemptions regarding them. Local laws shall not establish exemptions or subsidies to the above-mentioned taxes, neither in favor of individuals or corporations [personas fisicas o morales] nor official or private entities. Only the revenues of public domain of the Federation, the States or Municipalities shall be exempt of said taxes.

The Legislatures of the States shall approve the income laws of the Councils and shall review their public finances. Budget expenditures shall be approved by the Councils on the basis of their available revenues.

V.- Municipalities, under the terms of the respective federal and state laws, shall be empowered to formulate, approve and administer the zoning and urban municipal development plans; to participate in the creation and administration of its territorial reserves; to control and oversee the land use in its territorial jurisdictions; to intervene in the regularization of tenure of urban land; to grant licenses and building permits; and to participate in the creation and administration of ecological preservation zones. For this purpose and in accordance with the goals outlined in the third paragraph of Article 27 of this Constitution, they shall issue the regulations and administrative orders deemed necessary.

VI.- When two or more urban centers situated within municipal territories of two or more federal entities form or tend to form a demographic continuity, the Federation, federal entities and municipalities concerned, shall, within their jurisdiction, plan and regulate in a joint and coordinate manner the development of those centers pursuant to the federal law on the subject.

[The following short paragraph VII was formerly the second sentence of paragraph II.]

VII. - The Federal Executive and the Governors of the States shall command the public forces in the municipalities where they customarily or temporarily reside.

[All of the provisions of the following paragraph VIII were formerly part of paragraph II, as amended in 1943.]

VIII. - Governors of the States may not hold office for more than six years.

The election of Governors of the States and the local legislature shall be direct and in the manner prescribed by their respective electoral laws.

Governors of the States who hold office by regular or special election may not, in any case or for any reason, again occupy that office in an interim, provisional or substitute character, or be in charge of that office in any capacity.

The following may never be re-elected for the immediately following term:

- a) A substitute constitutional governor or a governor designated in case of the permanent absence of the constitutional governor, even when he has a different official title.
- b) An interim or provisional governor or a citizen, who under any title, replaces the governor during temporary absences, provided he held the office during the last two years of the term.

The constitutional governor of a state must be a Mexican citizen by birth and a native of the state or with actual residence therein for not less than five years immediately preceding the day of the election.

The number of representatives in the state legislature shall be proportional to the inhabitants of each state; but in no case shall there be fewer than seven deputies in states having a population of less than 400,000 inhabitants; or nine in those in which the population exceeds that numbers but does not reach 800,000; and eleven in states having a population greater than the latter figure.

Deputies to the legislatures of the States may not be re-elected for the term immediately following. Alternate deputies may be elected for the term immediately following in the capacity of incumbents, provided they have not performed the duties of an incumbent deputy, but incumbent deputies may not be elected as alternate in the term immediately following.

In accordance with the legislation enacted in each of the federal entities, there shall be introduced the system of minority deputies in the election of local legislatures and the principle of proportional representation in the election of council members of all municipalities.

[This last provision was added in 1977. It became effective on December 7, 1977.]

IX.- Labor law relations between the states and its workers shall be governed by laws issued by the State Legislatures having as its basis the provisions of Article 123 of the Political Constitution of the United Mexican States and its regulatory provisions. The Municipalities shall observe these same rules with regards to its workers.

X.- The Federation and the States, as provided by law, may agree to assume the exercise of their functions, to carry out and operate public works and to provide public services when economic and social development makes it necessary.

The States shall be empowered to sign these agreements with their municipalities so that they would assume the responsibility of providing these services or comply with the duties mentioned in the preceding paragraph.

The most recent amendment concerns Article 4. It was published in the Diario Oficial on February 7, 1983. This Article, it may be recalled, was previously amended (Diario Oficial, February 3, 1983) to declare that every individual had a right to health protection. A few days later, the following amendment was published:

Article 4

.....

Every family has the right to enjoy decent and proper housing. The law shall establish the instruments and necessary supports in order to reach said goal.

On August 25, 1983, the Government began to make compensation payments to the previous owners of the banks. The total amount to be paid was listed as 100 billion pesos.

On the following day, Jesus Silva Herzog, the Minister of Finance, announced that an agreement had been signed to reschedule the 11 billion dollars which Mexico owes to the United States.

Mexico

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